

REMARKS

Claims 16-32 are directed to non-elected subject matter and are canceled herein. Applicants reserve the right to claim the subject matter of claims 16-32 in continuing applications. Claims 1-15 are pending in the application.

Support for the amendments to claim 1 can be found, *inter alia*, at page 14, line 28, through page 15, line 9 of the specification. The amendment to claim 1 does not add new matter.

I. Objections

The Examiner has objected to the title as being non-descriptive. Applicants have provided a new more descriptive title.

The Examiner has objected to claims 5-15 as being improper for use of claims claiming dependency from multiple dependent claims. Applicants have amended claims 5-15 as needed to correct dependencies.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the objections.

II. Rejection of the claims under 35 U.S.C. § 112, second paragraph

Claims 1-4 stand rejected as being indefinite. (Office Action, page 3.) Applicants respectfully disagree but have amended the claims to expedite prosecution.

The Examiner asserts that claim 1 is confusing because it cannot be understood how “causing relative movement between the container and a filtration unit,” the “sample is made to pass through the filter into the filtrate chamber.” Applicants have amended claim 1 to recite “inserting a filtration unit into the container” in order to clarify the action that results in the sample passing through the filter into the filtrate chamber.

Applicants believe amended claim 1 is fully compliant with the requirements of 35 U.S.C. § 112, second paragraph and respectfully request reconsideration and withdrawal of the rejection.

II. Rejection of the claims under 35 U.S.C. § 102

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by either of Mori *et al.* (U.S. Application No. 2004/0063121) or Baker (U.S. Application No. 2003/0173284). (Office Action, page 3.)

The Examiner asserts that Mori *et al.* and Baker disclose methods wherein a filtration unit comprising a filter membrane is inserted into a sample and sucking the solution to pass through the filter membrane into the filtrate chamber. As amended herein, claim 1 recites “inserting a filtration unit into the container, the filtration unit having a filter and a filtrate chamber, whereby the sample is made to pass through the filter into the filtrate chamber.” Both Mori *et al.* and Baker disclose methods wherein the insertion of the filtration unit into the sample is followed by sucking the sample through the filter membrane into the filtrate chamber. Neither reference discloses the sample passing the filter membrane into the filtrate chamber without sucking. Therefore the cited art does not anticipate claim 1 which recites that “inserting a filtration unit into the container, the filtration unit having a filter and a filtrate chamber, whereby the sample is made to pass through the filter into the filtrate chamber” without the use of sucking.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 102.

II. Rejection of the claims under 35 U.S.C. § 103

Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over either Mori *et al.* or Baker in view of Colpan (U.S. Patent No. 6,277,648). (Office Action, page 5.)

The Examiner asserts that Colpan discloses a filtration unit comprising at least upstream and downstream filters in series and further wherein the upstream filter has a higher size exclusion threshold than the downstream filter. However, as noted above, neither Mori *et al.* or Baker disclose passing a sample through a filter membrane into a filtrate chamber without the use of sucking as claimed herein. Colpan does not remedy this deficiency. Therefore, the cited art, alone or in combination, does not teach all the limitations of the claims and a *prima facie* case of obviousness has not been established.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. § 103.

Conclusion

Applicant believes that a full and complete reply has been made to the outstanding Restriction Requirement. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this response is respectfully requested.

Respectfully submitted,

/Peter G. Foiles/

Peter G. Foiles, Reg. # 46,477

June 5, 2009

Life Technologies Corporation
Customer No. 52059
(240) 379-4173